REMARKS

Claims 1-34 are pending in the application and have been examined. Claims 1-34 stand rejected. Claims 1, 9, 14, 21, and 24 have been amended. Claims 2 and 10 have been canceled. Reconsideration of Claims 1, 3-9, and 11-34 is respectfully requested.

The Rejection of Claims 1-4, 7-8, 23, and 28-31 Under 35 U.S.C. § 103(a) as Being Unpatentable Over U.S. Patent No. 2,966,708 (Freeman) in View of U.S. Patent No. 2,787,037 (Hobbs)

Claims 1-4, 7-8, 23, and 28-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,966,708 (Freeman) in view of U.S. Patent No. 2,787,037 (Hobbs). Applicant respectfully traverses this ground of rejection for at least the following reasons.

While not acquiescing with the Examiner's position, but in order to clarify the invention, Claim 1 (from which Claims 3-4, 7-8, and 28-31 depend) and Claim 21 (from which Claim 23 depends) have been amended to recite "the distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees." Support for this amendment is found throughout the specification as filed, for example at page 9, lines 5-17, and original Claim 2, now canceled.

It is submitted that a *prima facie* case of obviousness has not been established because Freeman teaches away from the claimed invention; therefore, there is no motivation to combine the teachings of Freeman with Hobbs. Moreover, modification of the system of Freeman as suggested by the Examiner would render the Freeman system inoperable for its intended purpose. Finally, even if improperly combined, the cited references alone or in combination fail to teach all the limitations of the invention as claimed.

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As an initial matter, it is noted that the Examiner has mischaracterized Freeman as disclosing a system for coupling a masonry veneer to a structure. Contrary to the Examiner's assertion in this regard, Freeman is generally directed to a stud anchor plate adapted to be secured to a footing or foundation to facilitate and secure "the *attachment of the studs of partition walls and the like to said supporting base.*" Col. 1, lines 5-25, emphasis added. For example, Figure 2 of Freeman illustrates "the cooperating portions of an anchor plate and a stud adapted to be detachably engaged therewith." Col. 1, lines 55-58. It is further noted that in contrast to the present invention, which provides an advantage of allowing sliding movement of a key along the length of an anchor channel while limiting side to side horizontal motion of the key in the channel (due to the strengthening gusset), the system described in Freeman is specifically designed to *prevent* sliding movement of a stud along the length of a channel, while *allowing* side to side movement of the stud. For example, as described in Freeman, "[w]hen once the stud has been moved into its final position, as shown in Figures 1 and 3, the inherent resiliency of the side walls 20 and 18 will cause their flanges to engage in the notches of the stud and *thus prevent vertical or transverse movement of the stud with respect to the channels, except for a transverse rocking movement.*" Col. 3, lines 1-5, emphasis added. Therefore, the teachings of Freeman would not remotely teach or suggest the claimed invention because the walls of the Freeman anchor channel must flex to work for their intended purpose.

The Examiner acknowledges that Freeman does not teach the distal end being projected toward the channel bottom at an acute angle. In fact, it is noted that Freeman actually teaches away from the use of the distal end projected toward the channel bottom at an acute angle. As noted in the instant specification, "[a]n additional advantage afforded by the shape of the anchor 300A-E is that *the distal end 318 of the second wall 308 acts as a strengthening gusset to prevent bowing of the anchor* 300A-E during hot dip galvanization." Specification at page 11, lines 4-7,

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emphasis added. In direct contrast to the claimed invention, Freeman discloses that flanges 30 and 32 are *perpendicular* to the side walls. As stated in Freeman, "[i]t is preferred to form the channel member 10 of a sheet metal material which is sufficiently resilient, as will be apparent from a comparison of Figures 4, 5 and 6, to permit at least one of the side walls to *flex away from the other side wall*, as for example to permit flexing of the wall 18 away from the wall 20 *in order to enable engagement of a stud within the channel member or its removal therefrom.*" Col. 2, lines 36-43, emphasis added. As further described in Freeman, "[i]n applying the stud to the channel member, the V-shaped enlarged notch 36 is applied to the flange 32, with the stud in an inclined position as shown in Figure 5. Thereafter the stud is rocked vertically upwardly, the *lower edge 38 of the stud pressing against the flange 30 and flexing the wall 18 outwardly* as shown in Figure 6, after which the stud may move in a vertical position and *the resiliency of the walls 18 and 20* will cause the flange 30 to engage in the notch 34." Col. 2, lines 64-72, emphasis added.

Hobbs is generally directed to a furniture fastening device with three separate components that interlock to form a furniture bracket. It is noted that Hobbs is non-analogous art and is not reasonably pertinent to the field of masonry anchoring systems of the present invention. To rely on a reference under 35 U.S.C. Section 103, it must be analogous prior art. MPEP Section 2141.01(a). Nevertheless, even if considered to be pertinent art, the teachings of Hobbs fail to cure the deficiencies of Freeman for the reasons described below.

The Examiner characterizes Hobbs as illustrating in FIGURES 1 and 2 a distal end (18) being projected toward the channel bottom at an acute angle. Contrary to the Examiner's assertion, it is noted that Hobbs does not teach an anchor with a channel bottom. Rather, Hobbs discloses an interlocking bracket with a male member (12) that is substantially L-shaped with a base member 15 and a tongue 17 extending perpendicularly to the base member and being

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provided with a hook portion 18. See Col. 1, lines 59-67, and FIGURE 2. It is further noted that Hobbs does not teach or suggest a distal end being projected toward the channel bottom at an acute angle of less than 90 degrees *wherein the second wall is projected substantially perpendicular to the channel bottom at a height greater than the first wall*, as claimed.

The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of invention to modify the anchor of Freeman to have the distal end be projected at an acute angle because it is well known in the art that a projected 45 degree angle is a better load/stress bearing surface than a 90 degree angle. Applicant disagrees with the Examiner's conclusion. As noted above, Freeman teaches away from the distal end projected at an acute angle because the anchor channel in Freeman relies on the inherent resiliency of the channel walls to permit flexing of the wall 18 away from the wall 20 in order to enable engagement of a stud within the channel member or its removal therefrom. Moreover, if the flanges (30, 32) of Freeman were modified as suggested by the Examiner to have the distal end projected at an acute angle, the modification would act as a strengthening gusset on the first wall (20) and the second wall (18), which would prevent the walls from outwardly flexing, thus changing the principle of operation of the Freeman system and also rendering it inoperable for its intended purpose of allowing insertion and removal of studs. As stated in the M.P.E.P. Section 2143.01, "[I]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984)."

In direct contrast to the system described in Freeman, the shape of the anchor as claimed in Claim 1 provides several advantages for use in a masonry anchoring system. For example, as described in the instant specification "the three sided channel body shape of each anchor allows each key to interlock with, and strengthen the anchor channel as the key interfacing the masonry

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veneer is tensioned." Specification at page 6, lines 15-20. As a further example, as described in the specification, the shape of one of the walls of the anchor serves as a strengthening gusset and prevents the elongated channel body of the anchor from bowing and deforming during galvanizing. Specification at page 6, lines 21-23.

Accordingly, it is demonstrated that a *prima facie* case of obviousness has not been established because Freeman teaches away from the claimed invention, and therefore there is no motivation to combine the teachings of Freeman with Hobbs. Moreover, modification of the system of Freeman as proposed by the Examiner would render the Freeman system inoperable for its intended purpose. Finally, even if improperly combined, the cited references alone or in combination fail to teach all the limitations of the invention as claimed. Therefore, removal of this ground of rejection is respectfully requested.

The Rejection of Claims 5, 6, 21, and 22 Under 35 U.S.C. § 103(a) as Being Unpatentable Over U.S. Patent No. 2,966,708 (Freeman) in View of U.S. Patent No. 2,787,037 (Hobbs) and Further in View of U.S. Patent No. 6,209281 (Rice).

Claims 5, 6, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,966,708 (Freeman) in view of U.S. Patent No. 2,787,037 (Hobbs) and further in view of U.S. Patent No. 6,209,281 (Rice). The Examiner acknowledges that neither Freeman nor Hobbs teaches the channel made from a stainless steel or hot-dip galvanized steel. The Examiner cites Rice as disclosing within Col. 1 that the connectors are typically made from galvanized steel or stainless steel to keep the strength and integrity intact over time.

Applicant disagrees with the Examiner's conclusions for at least the following reasons. Claims 5 and 6 depend from Claim 1, and are believed to be patentable over the Freeman and Hobbs references for at least the reasons described above in connection with the rejection of Claim 1. The teachings of Rice merely discloses that in the past, brick tie wire connectors have

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been made of a galvanized carbon steel. Rice does not teach or suggest a channel anchor with "the distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees" as recited in Claim 1 and Claim 21. Therefore, even if improperly combined, the teachings of Rice fail to cure the deficiencies of Hobbs and Freeman.

Accordingly, it is demonstrated that a *prima facie* case of obviousness has not been established because Freeman teaches away from the claimed invention; therefore, there is no motivation to combine the teachings of Freeman with Hobbs. Moreover, modification of the system of Freeman as proposed by the Examiner would render the Freeman system inoperable for its intended purpose. Finally, even if improperly combined, the cited references alone or in combination fail to teach all the limitations of the invention as claimed. Therefore, removal of this ground of rejection is respectfully requested.

The Rejection of Claims 9-12, 14-16, 19, 21-24, and 27-34 Under 35 U.S.C. § 103(a) as Being Unpatentable Over U.S. Patent No. 2,966,708 (Freeman) in View of U.S. Patent No. 2,787,037 (Hobbs) and Further in View of Prior Art Figure 1B.

Claims 9-12, 14-16, 19, 21-24, and 27-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,966,708 (Freeman) in view of U.S. Patent No. 2,787,037 (Hobbs) and further in view of Prior Art Figure 1B. Applicant respectfully traverses this ground of rejection for at least the following reasons.

While not acquiescing with the Examiner's position, but in order to clarify the invention with regard to the channel body, independent Claim 1 (from which Claims 27-31 depend), Claim 14 (from which Claims 15, 16, 19, 33, and 34 depend) and Claim 21 (from which Claims 22-24 depend) have each been amended to recite "the distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees." Support for this amendment is found throughout the specification as filed, for example at page 9, lines 5-17,

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and original Claim 2, now canceled. With regard to the key, Claim 9, (from which Claims 11, 12, and 32 depend) and Claim 14 (from which Claims 15, 16, 19, 33, and 34 depend) have each been amended to recite "wherein the slit is slanted towards the anchor at an acute angle from about 30 to about 60 degrees." Support for this amendment is found throughout the specification as filed, for example at page 11, lines 26-31, and original Claim 10, now canceled.

It is submitted that a *prima facie* case of obviousness has not been established because Freeman teaches away from the claimed invention; therefore, there is no motivation to combine the teachings of Freeman with Hobbs. Moreover, if the system of Freeman were to be modified with Hobbs as proposed by the Examiner, it would render the Freeman system inoperable for its intended purpose. Finally, even if improperly combined, the cited references alone or in combination fail to teach all the limitations of the invention as claimed.

The Examiner acknowledges that neither Freeman nor Hobbs teaches a key interfacing with the wall and interlocking with the anchor. The Examiner characterizes prior art FIGURE 1B as illustrating a key having a substantially flat body with two ends, a first end having a slit to interlock with the anchor, and a second end having one or more openings for mortar capture. The Examiner acknowledges that FIGURE 1B does not teach the slit projected at an angle of less than 90 degrees. Nevertheless, the Examiner concludes it would have been obvious to one having ordinary skill in the art at the time of invention to alter the angle of the slot to fit the channel disclosed by Freeman in view of Hobbs.

For the reasons described above in connection with the rejection of Claim 1, neither Freeman nor Hobbs teach or suggest the anchor channel having a the distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees, as claimed. As further noted above, the modification of Freemen with Hobbs as proposed by the Examiner would render the system of Freeman inoperable for its intended purpose, and therefore

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does not render the claimed invention obvious. The teaching of FIGURE 1B fails to cure the deficiencies of Freeman and Hobbs in this regard. As acknowledged by the Examiner, FIGURE 1B does not teach a key with a slit projected at an angle less than 90 degrees. For the reasons described *supra*, it is noted that there is no motivation or suggestion to modify the distal end of the channel wall of Freeman to include an acute angle as proposed by the Examiner. Similarly, it is noted with regard to Claims 9 and 14 that there is no motivation to alter the angle of the slot in a key interfacing with the wall and interlocking with the anchor, as asserted by the Examiner.

Therefore, it is demonstrated that a *prima facie* case of obviousness has not been established. Because Freeman teaches away from the claimed invention there is no motivation to combine the teachings of Freeman with Hobbs. Moreover, modification of the system of Freeman as proposed by the Examiner would render the Freeman system inoperable for its intended purpose. The teachings of FIGURE 1B fail to cure the deficiencies of Freeman or Hobbs. Finally, even if improperly combined, the cited references alone or in combination fail to teach all the limitations of the invention as claimed. Accordingly, removal of this ground of rejection is respectfully requested.

With regard to Claim 19, the Examiner acknowledges that Freeman does not disclose the anchor comprising a coating of adhesive material, with a peelable backing, on the outer surface of the channel. However the Examiner has taken the position that it is well known within the art of building construction to use an adhesive on the outer surface of an object *to provide extra strength* to that object in order to withstand external elements such as wind.

Claim 19 depends from Claim 14 and is believed to be patentable for at least the reasons described in connection with Claims 1 and 14. Contrary to the Examiner's assertion that the motivation to add adhesive material is for strength purposes, it is noted that Claim 19 is directed to an anchor channel comprising a coating of adhesive material comprising a *weatherproof*

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protective membrane on the outer surface of the channel. There is no teaching, suggestion or motivation provided by the Examiner for the invention as claimed in Claim 19. Therefore, withdrawal of the rejection of Claim 19 is respectfully requested.

The Rejection of Claims 13, 17, 18, 25, and 26 Under 35 U.S.C. § 103(a) as Being Unpatentable Over U.S. Patent No. 2,966,708 (Freeman) in View of U.S. Patent No. 2,787,037 (Hobbs), Further in View of Prior Art Figure 1B, and Further in View of U.S. Patent No. 6,209,281 (Rice).

Claims 13, 17, 18, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,966,708 (Freeman) in view of U.S. Patent No. 2,787,037 (Hobbs), further in view of prior art Figure 1B, and further in view of U.S. Patent No. 6,209,281 (Rice). The Examiner acknowledges that neither Freeman, Hobbs nor prior art FIGURE 1B teaches the channel made from hot-dip galvanized steel. The Examiner cites Rice as disclosing within Col. 1 that the connectors are typically made from galvanized steel or stainless steel to keep the strength and integrity intact over time. The Examiner has taken the view that for strength purposes it would have been obvious to one having ordinary skill in the art at the time the invention was made to use 11-20 gauge galvanized steel or even a higher gauge, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended purpose. Applicant disagrees with the Examiner's conclusion for at least the following reasons.

Claim 13 depends from Claim 9 and is believed to be patentable over Freeman, Hobbs and FIGURE 1B for at least the reasons described above in connection with the rejection of Claim 9. As described above, neither Freeman nor Hobbs teach or suggest the anchor channel having a distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees, as claimed. As further noted above, the modification of Freemen

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with Hobbs as proposed by the Examiner would render the system of Freeman inoperable for its intended purpose, and therefore does not render the claimed invention obvious. As acknowledged by the Examiner, FIGURE 1B does not teach a key with a slit projected at an angle less than 90 degrees. For the reasons described supra, it is noted that there is no motivation or suggestion to modify the distal end of the channel wall of Freeman to include an acute angle as proposed by the Examiner. Similarly, it is noted with regard to Claims 9 and 14 that there is no motivation to alter the angle of the slot in a key interfacing with the wall and interlocking with the anchor, as asserted by the Examiner.

The teachings of Rice fail to cure the deficiencies of Freeman, Hobbs and FIGURE 1B in this regard. Rice merely discloses that in the past, brick tie wire connectors have been made of a galvanized carbon steel. Rice does not teach or suggest a key comprising a substantially flat body with two ends, a first end having a slit to interlock with an anchor, wherein the slit is slanted towards the anchor at an acute angle from about 30 degrees to about 60 degrees, as recited in Claim 9. Therefore, even if improperly combined, the teachings of Rice fail to cure the deficiencies of Hobbs, Freeman and FIGURE 1B.

Therefore, withdrawn of this ground of rejection is respectfully requested.

The Rejection of Claim 20 Under 35 U.S.C. § 103(a) as Being Unpatentable Over U.S. Patent No. 2,966,708 (Freeman) in View of U.S. Patent No. 2,787,037 (Hobbs), Further in View of Prior Art Figure 1B, and Further in View of U.S. Patent No. 5,816,008 (Hohmann)

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,966,708 (Freeman) in view of U.S. Patent No. 2,787,037 (Hobbs), further in view of prior art Figure 1B, and further in view of U.S. Patent No. 5,816,008 (Hohmann).

The Examiner acknowledges that neither Freeman, Hobbs, nor Figure 1B discloses an anchoring system with at least two anchors. The Examiner characterizes Hohmann as disclosing

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an anchoring system with at least two anchors where each anchor (40) is mounted on a structure (26). The Examiner then concludes it would have been obvious to one of skill in the art at the time the invention was made to have multiple anchoring structures within the wall for reinforced strength. Applicant respectfully disagrees with the Examiner's conclusions for at least the following reasons.

Claim 20 depends from Claim 14 and is believed to be patentable over Freeman, Hobbs, and FIGURE 1B for at least the reasons described above in connection with Claim 14. Moreover, as acknowledged by the Examiner, neither Freeman, Hobbs, nor Figure 1B discloses an anchoring system with at least two anchors. The teachings of Hohmann fail to cure the deficiencies of the cited references. For example, Hohmann does not teach or suggest the anchor channel having a the distal end being projected toward the channel bottom at an acute angle of from about 30 degrees to about 60 degrees, as claimed. Moreover, contrary to the Examiner's assertion, Hohmann does not disclose an anchoring system comprising at least two anchors, wherein each anchor is mounted to a structure in an alternate orientation with respect to the adjacent anchor, as recited in Claim 20. For example, FIGURE 2B of the instant application illustrates an embodiment of the system comprising at least two non-symmetrical anchors mounted to a structure in an alternating orientation. In contrast, Hohmann illustrates an anchor plate system which includes symmetrical anchor plates (40) which are each mounted in the same orientation on the structure (26).

Accordingly, because the cited references fail to teach or suggest the claimed invention, removal of this ground of rejection is respectfully requested.

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CONCLUSION

In view of the foregoing, applicant submits that all of the pending claims are in condition for allowance and notification to this effect is respectfully requested.

Respectfully submitted,

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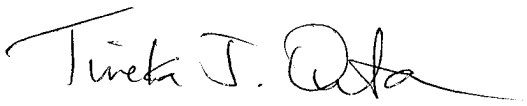

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